

Approved July 9, 2014

**Occupational Health & Safety Review Commission
MINUTES OF THE March 20, 2014 MEETING**

The meeting of the New Mexico Occupational Health & Safety Review Commission was held on March 20, 2014 starting at 10:04 a.m. in the Annex Conference Room L1015, Harold Runnels Building, 1190 St. Francis Dr., Santa Fe, NM.

Item #1: Call to Order

Chair Drennan called the meeting to order at 10:04 a.m.

Item #2: Roll Call

Members Present:

Mr. Bryan Drennan, Chair
Mr. Brock Carter

Members Absent:

Mr. Arturo Archuleta

Others Present:

Tania Maestas, AGO
Sally Worthington, NMED
Robert Genoway, NMED OHSB
Chris Atencio, NMED OGC
Billy Jimenez, NMED OGC
Kathryn Becker, NMED OGC
Wayne Bingham, Bingham, Hurst & Apodaca
Chris Otero, Otero & Sons Roofing
Dan Akenhead, Miller Stratford
Frederick Mowrer, Sanchez Mowrer & Desiderio (telephonically)

Item #3: Approval of Agenda

ACTION: Mr. Carter made a motion to approve the Agenda. Chair Drennan seconded. Motion carried unanimously.

Item #4: Approval of the October 29, 2013 Meeting Minutes

ACTION: Mr. Carter made a motion to approve the minutes. Chair Drennan seconded. Motion carried unanimously.

Item #5 Adoption of OHSRC Open Meetings Act 2014 Resolution

ACTION: Mr. Carter made a motion to approve the Open Meetings Act 2014 Resolution. Chair Drennan seconded. Motion carried unanimously.

Item #6: In the matter of NMED v. Otero & Sons Roofing, OSHA 13-024; pending motion re: Motion to For Default Judgment (each party will be allowed 15 minutes for oral argument). Billy Jimenez, NMED/OGC and Wayne Bingham, for Respondent. The Commissioners may adjourn into Closed Executive Session to discuss this matter pursuant to Section 10-15-1(H)(3), NMSA 1978 of the Open Meetings Act.

ACTION: Each party presented their oral argument: Billy Jimenez, representing the OHSB, was joined by Bob Genoway, the OHSB Bureau Chief. Wayne Bingham, representing Otero & Sons Roofing, was joined by Christopher Otero, with Otero & Sons Roofing. The moving party went first, followed by the respondent.

Mr. Carter made a motion to go into Executive Session pursuant to Section 10-15-1(H)(3) NMSA 1978 of the Open Meetings Act to deliberate over the matter listed in #6 of the agenda pertaining to case number OSHA 13-024. Chair Drennan seconded the motion. After a roll call vote the motion carried unanimously. The Commission went into Executive Session at 10:27 am.

Chair Drennan declared the meeting back in open session at 10:38 am. He stated that the matters discussed in Executive Session were limited only to those specified in the motion for closure. He then entertained a motion to either grant or deny NMED's Motion To Dismiss. Mr. Carter made a motion to deny NMED's Motion to Dismiss The Notice of Contest for Default Judgment. Chair Drennan seconded. Chair Drennan said that it is not the duty of the NMED or OSHA to advise the respondent to answer the complaint. It's not NMED's responsibility to offer legal advice concerning any OSHA issued citation. We will hear this case on the merits and we will need to schedule the hearing for the future. Mr. Bingham stated that he would be filing the answer in the next few days.

Item #7 Scheduling of a hearing for OSHA 13-033, NMED v. Everguard Roofing, LLC. Kathryn Becker, NMED/OGC and Wayne Bingham for Respondent.

Mr. Bingham stated that his client, Everguard Roofing, would be happy to waive any deadlines or timelines so that they can do this at the convenience of the Commission. The scheduling will be handled through correspondence with the Administrator.

Item #8 Scheduling of a hearing for OSHA 13-035, NMED v. McVay Drilling Company. Christopher Atencio, NMED/OGC and Timothy Briggs for Respondent.

Dan Akenhead was sitting in for Mr. Briggs. The parties have agreed on a six months stay and will file a stipulated motion which will be made part of the record.

Item # 9 Scheduling of a hearing for OSHA 13-034, NMED v. Battle Energy Services. Christopher Atencio, NMED/OGC and Frederick Mowrer for Respondent.

Mr. Mowrer participated via teleconference. The scheduling will be handled through correspondence with the Administrator.

Item #10 Other Business

None.

Item #11 Adjournment

ACTION: Mr. Carter made a motion to adjourn. Chair Drennan seconded. Motion carried unanimously.

The meeting adjourned at 11:03 am.



C. Bryan Drennan, OHSRC Chair